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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,249	12/17/2001	Susan T. Tingey	83783CEB	6214

7590

06/04/2003

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EXAMINER

FOSTER, JIMMY G

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 06/04/2003

5

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/023,249

Applicant(s)

Tingey et al.

Examiner

Jimmy G. Foster

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4 6) ☐ Other:

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 2 are rejected under 35 U.S.C. § 102(b) as being anticipated by Saveliev et al (5,819,936). In the reference of Saveliev et al, a container is disclosed for photographic film, including a product container at body 12, a reclosable lid at 14, and a finger release at 18. The container is made of high density polyethylene (beginning col. 3, line 29).

3. Claims 1, 3, 4 and 9 are rejected under 35 U.S.C. § 102(b) as being anticipated by Rapchak et al (5,667,094). The reference of Rapchak discloses a container at 10 and a reclosable lid at closure 11. A finger release is provided at tab 24 on the lid to help in removing the lid from the container. Below surface 19 is a latching notch on the container which is latched to a protruding lip 28,27 on the lid for latching the lid on the container.

The container is capable of carrying a light and moisture protected product of appropriate size to be placed in the container, which meets what has been claimed regarding such product.

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4. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-3 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ritter (3,355,061) in view of Saveliev et al (5,819,936). In the reference of Ritter, a film case is disclosed including a container at body 11, a reclosable lid at cap 12, a latching notch at shoulder 20, and a protruding lip at beaded portion 23. Although the reference of Ritter does not disclose a finger release, the reference of Saveliev et al at 18 suggests that the reclosable lid of a film container may be provided with a finger release/thumb tab to help in removing the lid (14) from the closed position of the container (12). Accordingly, it would have been obvious in view of this to have provided a finger release/thumb tab on the lid 12 of Ritter for the purpose of helping in the removal of the lid from the closed position.

6. Claim 4 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Ritter (3,355,061) in view of Saveliev et al (5,819,936) as applied to claim 3 above, and further in view of Rapchak (5,667,094). Although the thumb tab of Saveliev et al, as applied to Ritter, does not show the thumb tab as being further included from the protruding lip, the reference of

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Rapchak suggests that a finger release/tab may extend from the protruding lip of a lid. This would apparently provide better leverage in disengaging the protruding lip on the lid from the notch in the wall of the container. Accordingly, it would have further been obvious to have provided the finger release/tab of the lid of Ritter, as modified by Saveliev et al, so that the tab extends from the protruding lip of the lid, for the purpose of improving the leverage on the protruding lip, so as to better facilitate opening of the lid.

6. Claim 5 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Ritter (3,355,061) in view of Saveliev et al (5,819,936) and Rapchak (5,667,094) as applied to claim 4 above, and further in view of Cyr (5,775,496). The reference of Cyr at 50 suggests that carrying straps may be provided on a container for photographic equipment, including film, for the purpose of carrying the container from one's shoulder. For this purpose it would have further been obvious in view of Cyr to have provided a shoulder strap on the container of Ritter, as modified above.

7. Claim 6 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Ritter (3,355,061) in view of Saveliev et al (5,819,936), Rapchak (5,667,094) and Cyr (5,775,496) as applied to claim 5 above, and further in view of Mangla et al (6,257,401). The reference of Mangla et al at 78 suggests that the carrying straps of a container may be made molded to an exterior portion of the container. This would apparently permit the straps and container to be formed at the same time. For this purpose it would have further been obvious in view of

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Mangla et al to have made the straps of Ritter, as modified by Saveliev et al and Cyr above, to be molded to the container.

8. Claim 7 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Ritter (3,355,061) in view of Saveliev et al (5,819,936) as applied to claim 1 above, and further in view of Pribyl (4,406,385). The reference of Pribyl at 24a,24b suggests that clips may be provided on a film container for the purpose of attachment to a carrying strap or belt. For this purpose it would further have been obvious in view of Pribyl to have provided strips on the container of Ritter, as modified above.

9. Claim 8 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Ritter (3,355,061) in view of Saveliev et al (5,819,936) as applied to claim 1 above, and further in view of Shibazaki et al (5,370,227) and Cyr (5,775,496). The reference of Shibazaki et al at S2 suggests providing a partition in a film container, and making the container large enough, for the purpose of holding more than one roll of film separately. For this purpose it would have further been obvious in view of Shibazaki et al to have made the container of Ritter, as modified above, with a partition and with room for plural rolls of film.

Cyr, at the divider system, suggests that a partition may be removable for the purpose of partitioning a container into selected compartments. It would have further been obvious in view of Cyr and for this purpose to have made the partitions of Ritter, as modified above, removable.

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10. Claim 9 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Ritter (3,355,061) in view of Saveliev et al (5,819,936) as applied to claim 1 above, and further in view of Hara (5,139,165). Hara at 5 and 13 suggests connecting the lid of a film container by hinge for the purpose of keeping the lid with the container when the lid is open. Apparently, a hinged lid would be handy for closure when such is desired. For this purpose it would have further been obvious in view of Hara to have made the lid of Ritter, as modified above, hinged to the container.

11. Claim 10 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Ritter (3,355,061) in view of Saveliev et al (5,819,936) and Cyr (5,775,496) as applied to claim 8 above, and further in view of Sorci (4,955,502). The reference of Sorci at P suggests making partitions of paperboard for the purpose of making the partitions foldably collapsible when not in use. Accordingly, it would have further been obvious in view of Sorci to have made the partitions of Ritter, as modified above, from paperboard.

12. For contacting the PTO by phone, the following contact numbers may be used:

For tracking of papers and association of papers with cases --
Customer Service. . . (703)306-5648

For matters regarding examination -- Examiner:
Jim Foster (703)308-1505

For faxing of correspondence:

DRAFT Fax amendments only-(703)308-7769
(Examiner should be notified of fax)

FORMAL Fax correspondence-(703)305-3579 or 305-3580

RIGHT FAX- Before Final . . (703) 872-9302

Serial Number: 10/023,249

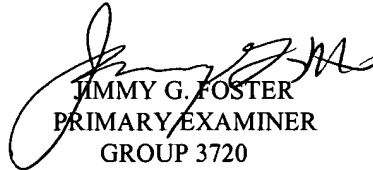
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After Final . . . (703) 872-9303
(The examiner ordinarily will not retrieve
formal correspondence)

For petitions:

Before the Examiner . (703)308-1505
Before the Group Director . (703)308-3872
Other petitions . . . (703)305-9282


JIMMY G. FOSTER
PRIMARY EXAMINER
GROUP 3720

JGF
May 27, 2003